

## **REMARKS**

In response to the Office Action mailed November 21, 2007, in connection with the above-identified application, Applicant's elect, with traverse, Group I, claims 40 to 59, drawn to a device and the first layer/phase species a) PVP; the second layer/phase species b) PVP; and the species of claim 41 ("wherein said first layer is arranged above the second layer") for prosecution in the above-identified application.

Applicants respectfully request rejoinder of the Group II and III claims with the elected Group I claims for prosecution in the application. In this regard, Applicants note that the Group II and III claims are related to the Group I claims as Process and Apparatus for Its Practice (M.P.E.P. 806.05(e)). Such claims are subject to restriction if either A) the process as claimed can be practiced by another materially different apparatus; or B) the apparatus as claimed can be used to practice another materially different process (M.P.E.P. 806.05(e)). However, the Patent Office fails to point out why restriction is proper under either of these two conditions. Since "[t]he burden is on the examiner to provide reasonable examples of material differences" and the Patent Office has failed to meet the burden, the restriction of the Groups I-III claims is improper (M.P.E.P. 806.05(e)).

Furthermore, the Groups II and III claims depend from at least one of the Group I claims. In particular, Group II claims 60 and 61 depend from Group I, claim 40; and Group III claims 62 and 63 depend from Group I, claim 1. Thus, the Groups II and III claims require each and every limitation of at least one of the Group I claims. Consequently, a search of the Group I claims will include a search of the Groups II and III claims. Consequently, there would not be an undue burden for the Patent Office to examine the Groups I-III claims in the subject application for restriction to be proper.

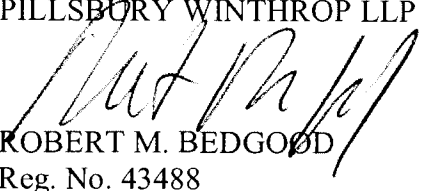
In sum, the Patent Office has failed to provide examples of material differences and therefore has failed to meet the burden required for restriction and furthermore, there would not be an undue burden to examine the Groups I-III claims in the subject application. Accordingly, Applicants respectfully request rejoinder of the Group II and III claims with the elected Group I claims for prosecution in the application.

### CONCLUSION

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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#### **CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10\***

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I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. deposited with the United States Postal Service "Express Mail Post Office to Addressee", Mailing Label No. \_\_\_\_\_, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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